

FACT SHEET

Americans with Disabilities Act - Title III affecting Public Accommodations An Overview (Public Law 101-336)

Who is covered by Title III of the ADA?

The Title III regulation covers "privately-owned places of public accommodation" and "commercial facilities," effective July 26, 1992.

"Public accommodations" include private establishments, such as restaurants, hotels, theaters, convention centers, retail stores, shopping centers, dry cleaners, laundromats, pharmacies, doctors' offices, hospitals, museums, libraries, parks, zoos, amusement parks, private schools, day care centers, health spas, and bowling alleys.

"Commercial facilities" are nonresidential facilities, including office buildings, factories, and warehouses, whose operations affect commerce.

Title III extends to all public accommodations and commercial facilities whether or not they receive Federal funds.

Entities controlled by religious organizations, including places of worship, are not covered.

Private clubs are not covered, except to the extent that the facilities of the private club are made available to customers or patrons of a place of public accommodation.

For more information, the Disability and Communication Access Board has published detailed fact sheets titled *"Americans with Disabilities Act - Title III Coverage affecting Places of Public Accommodation," "Americans with Disabilities Act - Title III Exemptions for Religious Entities,"* and *"Americans with Disabilities Act - Title III Exemptions for Private Club."*

General Requirements

Public accommodations must provide goods and services in an integrated setting, unless separate or different measures are necessary to ensure equal opportunity.

Public accommodations must eliminate unnecessary eligibility standards or rules that deny individuals with disabilities an equal opportunity to enjoy their goods and services.

Public accommodations must make reasonable modifications in policies, practices, and procedures that deny equal access to individuals with disabilities, unless a fundamental alteration would result in the nature of the goods and services provided.

Public accommodations must furnish auxiliary aids and services when necessary to ensure effective communication, unless an undue burden or fundamental alteration would result in the nature of the goods and services provided.

Public accommodations must provide equivalent transportation services and purchase accessible vehicles in certain circumstances.

Qualified Individuals with Disabilities

Title III of the Americans with Disabilities Act provides comprehensive civil rights protections for "qualified individuals with disabilities."

An "individual with a disability" is a person who

- has a physical or mental impairment that substantially limits a "major life activity," or
- has a record of such an impairment, or
- is regarded as having such an impairment.

Physical or mental impairments include, but are not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism. Homosexuality and bisexuality are not physical or mental impairments under the ADA.

"Major life activities" include functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Individuals who currently engage in the illegal use of drugs are not protected by the ADA when an action is taken on the basis of their current illegal use of drugs.

A "qualified" individual with a disability is one who meets the essential eligibility requirements for the program or activity offered by a public accommodation. The "essential eligibility requirements" will depend on the type of service or activity involved. For many activities, essential requirements may only be admission or dress standards.

Eligibility for Goods and Services

In providing goods and services, a public accommodation may not use eligibility requirements that exclude or segregate individuals with disabilities, unless the requirements are necessary for the operation of the public accommodation.

Requirements that tend to screen out individuals with disabilities, such as requiring a blind person to produce a driver's license as the sole means of identification for cashing a check, are also prohibited.

Safety requirements may be imposed only if they are necessary for the safe operation of a place of public accommodation. They must be based on actual risks and not on mere speculation, stereotypes, or generalizations about individuals with disabilities.

Extra charges may not be imposed on individuals with disabilities to cover the costs of measures necessary to ensure nondiscriminatory treatment, such as removing barriers or providing qualified interpreters.

Modifications in Policies, Practices, and Procedures

A public accommodation must make reasonable modifications in its policies, practices, and procedures in order to accommodate individuals with disabilities. For example, a department store may need to modify a policy of only permitting one person at a time in a dressing room if an individual with mental retardation needs the assistance of a companion in dressing.

A modification is not required if it would fundamentally alter the goods, services, or operations of the public accommodation.

Modifications in existing practices generally must be made to permit the use of guide dogs and other service animals.

Auxiliary Aids

A public accommodation must provide auxiliary aids and services when they are necessary to ensure effective communication with individuals with hearing, vision, or speech impairments.

"Auxiliary aids" include such services or devices as qualified interpreters, assistive listening headsets, television captioning and decoders, telecommunications devices for deaf persons (TDDs), videotext displays, readers, taped texts, Braille materials, and large print materials.

The auxiliary aid requirement is flexible. For example, a Braille menu is not required if waiters are instructed to read the menu to blind customers.

Public accommodations may not charge an individual with a disability for the use of an auxiliary aid.

Public accommodations are not required to provide auxiliary aids that would result in an undue burden (i.e., significant difficulty or expense) or in a fundamental alteration in the nature of the goods or services. However, a public accommodation must still furnish another auxiliary aid, if available, that does not result in a fundamental alteration or undue burden.

New Construction and Alterations

All newly constructed places of public accommodation and commercial facilities must be accessible to individuals with disabilities, to the extent that it is not structurally impracticable.

The new construction requirements apply to any facility occupied after January 26, 1993, for which the last application for a building permit or permit extension is certified as complete after January 26, 1992.

The architectural standards for accessibility in new construction and alterations are contained in the Americans with Disabilities Act Accessibility Guidelines (ADAAG) issued by the U.S. Access Board.

All alterations to existing places of public accommodations and commercial facilities must be accessible to individuals with disabilities, unless technically infeasible.

For more information, the Disability and Communication Access Board has published a detailed fact sheet titled *"Americans with Disabilities Act - Title III Design and Construction Requirements affecting Places of Public Accommodation."*

Existing Facilities: Removal of Barriers

Physical barriers to public accommodations (but not commercial facilities) must be removed when "readily achievable."

Readily achievable means "easily accomplishable and able to be carried out without much difficulty or expense." What is readily achievable will be determined on a case-by-case basis in light of the resources available.

For more information, the Disability and Communication Access Board has published a detailed fact sheet titled *"Americans with Disabilities Act - Title III Requirements to Remove Barriers in Existing Buildings."*

Enforcement

Private parties may bring lawsuits to enforce their rights under Title III of the ADA. The remedies available are the same as those provided under Section 504 of the Rehabilitation Act of 1973. A reasonable attorney's fee may be awarded to the prevailing party.

Any individual who believes that he or she is a victim of discrimination prohibited by the regulation may file a complaint. Complaints on behalf of classes of individuals are also permitted.

Complaints should be in writing, signed by the complainant or an authorized representative, and should contain the complainant's name and address and describe the public accommodation's alleged discriminatory action.

Complaints may be sent to the

Disability Rights Section
Civil Rights Division
U.S. Department of Justice
P.O. Box 66738
Washington, D.C. 20035-6738

The above information was summarized and excerpted from fact sheets prepared by the U.S. Department of Justice.

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